

Remarks
(as to paragraph-5 of the 14 April 2003 DETAILED ACTION)

The 24 January 2003-filed independent Claim 10 (the then sole remaining independent claim) was not rejected as being unpatentable over HANDZLIK. Accordingly, may applicant-Bland assume that Claim 10 is patentable over HANDZLIK (in view of the then canceled Claim 1) and which on 24 January 2003 applicant-Bland urged as patentable over HANDZLIK ? (see page-5 (lines 13-20)) of applicant-Bland's 24 January 2003 filing).

And in a related vein, today's-filed and second only independent claim, namely Claim 11, includes all the limitations of the not heretofore specifically rejected independent Claim no. 10.

Applicant-Bland notes with appreciation in the 14 April 2003 Official Action that remaining dependent Claims nos. 2, 4, 5, 7, and 9, are deemed to be allowable, if dependent upon a patentable independent claim i.e. Claim no. 10 (not heretofore specifically rejected). And in a related vein, today's newly introduced dependent Claims nos. 12 and 13 are analogous limitation-wise to dependent Claims nos. 2 and 4, respectively.

Remarks
(as to paragraph-4 of the 14 April 2003 DETAILED ACTION)

Applicant-Bland is troubled as to why this 35 U. S. Code 112 objection was not raised at the first Official Action (dated 2 March 2001). Instead this objection came as the Examiner's "afterthought" 25-months later, namely on 14 April 2003 under MPEP 2172.01 only. The Examiner's 25-months belated reliance upon MPEP 2172.01 is obviously untimely and prejudicial to applicant-Bland's tactical position herein, and thusly, should be summarily withdrawn by the Examiner. And even if the Examiner should persist in MPEP 2172.01 at the late date, the case law cited thereunder is not pertinent to applicant-Bland's situation. For example, Mayhew's facts are for chemical processes, and the facts for Venezia and Collier refer to complicated arts not envisioned in applicant-Bland's pending claims.

In any event, the "means plus function" mode (35 USCode 112) of newly introduced Claims 11 and 13 seemingly obviates concern under MPEP 2172.01.

Accordingly, in the event that applicant-Bland would need to file a Notice-of-Appeal, he would also need to assert that the Examiner's 14 April 2003 belated citation of MPEP 2172.01 is procedurally prejudicial and is substantively without merit.

Concluding Remarks

Accordingly, in view of the foregoing, it is respectfully urged that this application is now in condition for immediate allowance, and for which an early Notice-of-Allowance is courteously solicited.

Respectfully submitted,

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